

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of this Amendment, claims 6-24, 26-33, 35, 36, 38-44, and 46-50 will be pending in the present application. Claims 48-50 have been newly added, and claims 1-5, 25, 34, 37, and 45 have been cancelled.

I. Allowable Claims

Applicant notes with appreciation the Examiner's indication that claims 20, 25, 27, 28, 34, 35, 37, 38, 41, 42, and 46 represent allowable subject matter and would be allowed if rewritten in independent form. The applicant has adopted the Examiner's suggestion as to these claims. Thus, the following claim amendment have been made:

- 1) Claim 20 has been rewritten as new independent claim 50;
- 2) The limitations of claim 25 have been added to independent claim 23 (claims 24, 26, 28, 29, and 30 depend from claim 23). Claim 25 has been cancelled;
- 3) Claim 27 has been rewritten in independent form (claim 28 depends from claim 27);
- 4) The limitations of claim 34 have been added to independent claim 31 (claims 32, 33, and 35 depend from claim 31). Claim 34 has been cancelled;
- 5) The limitations of claim 37 have been added to independent claim 36 (claims 38-40 depend from claim 36). Claim 37 has been cancelled; and
- 6) Claim 41, 42 and 46 have been rewritten in independent form.

Accordingly, applicant submits that claims 23, 24, 26-33, 35, 36, 38-42, 46, and 50 are in condition for allowance.

II. Claims Rejected Under 35 U.S.C. § 102

Claims 1-19, 21-24, 26, 29-33, 36, 39, 40, 43-45, and 47 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,560,353 to Willemot ("the '353 patent"). Applicant respectfully traverses this rejection for the reasons presented below.

A claim is anticipated only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the claims, as amended above, include one or more elements not taught or suggested by the cited references. The specific features of the each claim or claim sets that patentably distinguishes over the cited references are discussed in turn below.

A. Claims 6-22

Independent claims 6, 16, and 19 have been amended to recite that the identification storage area contains information identifying both (1) information describing the information storage device itself, and (2) information identifying a user to which the information storage device is assigned. The '353 patent teaches providing a patient identification code on the card, but it does not teach or suggest that the card also contain information describing the card itself.

In the present invention, different types of information storage devices (for example, a prescription card or record-only card) are capable of being used with each type of medical equipment. In addition, different medical device companies or medical device providers may use a common type of card. Therefore, it is desirable to provide the capability to discern the type of information storage device or the company associated with each card. This feature is provided in the present invention by means of the information in the card identification block that contains information describing the information storage device itself. Applicant submits that this capability is not taught or suggested in the '353 patent. The '353 patent simply does not

contemplate these possible uses for card C. Therefore, it lacks any teaching or suggestion of providing information on card C that describes the card itself.

B. Claim 43

Independent claim 43 recites a pressure support system that includes, among other things, a housing, a pressure generating system disposed within the housing, a controller in the housing in communication with the pressure generating system to control the pressure generating system, and a transceiver operatively coupled to the controller. Claim 43 further recites that the transceiver provides a wireless communication between an information storage device and the controller when the information storage device is located near the transceiver and not in direct contact with the pressure support system. This enables the controller to read information from the information storage device or write information thereto without having to be physically inserted into a reader in the medical device. Applicant submits that the '373 patent does not teach or suggest such a wireless transceiver that enables communication with the card without contact between the card and the control module. On the contrary, the '373 only discloses a card reading/writing device 17 that is provided within control module B.

C. Claim 44 and 47

Independent claim 44 recites a method of configuring a pressure support system in which the information storage device contains information for configuring the pressure support device based on the operating mode and the operating parameters for the pressure support device. The phrase "operating mode" refers to the type of pressure support treatment provided to the patient by the pressure support device, e.g., CPAP, bi-level, auto-titration, PPAP, PAV, or a combination thereof. See page 6, lines 6-8, of the present application. The phrase "operating parameter" refers to the variables that can be altered or controlled in each operating mode. See page 7, lines 1-5, of the present application. For example, in a CPAP device, the CPAP level is considered an operating parameter. In a bi-level device, the IPAP and EPAP levels are operating parameters. Applicant respectfully submits that the '353 patent does not teach or suggest

controlling the “operating mode” and the “operating parameters” of a medical device based on the information contained in card C.

The ‘353 patent teaches controlling the dosage time, the number of puffs, and the dosage date for the medication from a nebulizer. At best, this information corresponds to the “operating parameters” of the nebulizer. However, the ‘353 patent does not teach or suggest that the information used on the card be used to alter the operating *mode* of the nebulizer, i.e., to cause the hardware used for nebulization to be used in a different way to administer a different type of treatment to the user.

D. Claim 48

New independent claim 48 corresponds to original claims 12, 13, and 14. Claim 48 recites an information storage device that includes an identification storage area, a first information storage area, and (1) a first control data storage area that contains information that controls whether the operating information can be read from the information storage device, (2) a second control data storage area that contains information that controls whether the operating information can be erased from the information storage device, or (3) a display data storage area that contains information to be displayed on such a medical device. Applicant submits that the ‘353 patent does not teach or suggest that card C contains such information.

The ‘353 patent teaches providing operating parameter information to the nebulizer and storing information about the usage of the nebulizer the patient. However, this patent does not teach or suggest that the information contained on card C controls whether data can be read or erased from the card. Nor does the ‘353 patent teach or suggest that the information contained on the card be displayed by the nebulizer.

For the reasons presented above, applicant respectfully submits that independent claims 6, 16, 19, 43, 44, and 48, and 50 are not anticipated or rendered obvious by the cited references. In addition, claims 7-15, 17, 18, 20-22, 47, and 49 are also not anticipated or rendered obvious due to their dependency from independent claims 6, 16, 19, 44, or 48. Accordingly, applicant respectfully request that the above rejection of claims 1-19, 21-24, 26, 29-33, 36, 39, 40, 43-45, and 47 be withdrawn.

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All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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